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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,077	06/01/2001	Lisa Amini	STL920000116US1	3841
24852	7590	01/12/2006	EXAMINER	
INTERNATIONAL BUSINESS MACHINES CORP IP LAW 555 BAILEY AVENUE , J46/G4 SAN JOSE, CA 95141			NALVEN, ANDREW L	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,077

Applicant(s)

AMINI ET AL.

Examiner

Andrew L. Nalven

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-20, 23-34 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-20, 23-34 and 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-12, 15-20, 23-34, and 37-42 are pending.

Response to Arguments

2. Applicant's arguments filed 13 January 2005 have been fully considered but they are not persuasive.

3. Applicant has argued on pages 12-13 that the Mitty reference (US Patent No. 6,145,079) fails to anticipate claims 1-4, 7-10, and 15-18 because the Mitty reference is directed towards a non-streamed (non-chunked) environment whereas the present invention is directed towards either a streamed or non-streamed environment. Applicant further argues that the focus of Mitty is an electronic messaging system which differs from the focus of the present invention. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the intended use of the invention and the type of environment the inventions operate in) are not positively recited in the limitations of the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner further notes that the currently presented rejections contain teachings regarding streamed and non-streamed data.

Art Unit: 2134

4. Applicant's arguments regarding the Koopman reference are moot in view of the new grounds of rejection.

5. Applicant's arguments regarding the lack of teaching of chunked data are moot in view of the new grounds of rejection where the Shimomura reference provides teachings of chunked data (Shimomura, column 5 lines 25-35).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7-10, 12, 15-18, 20-27, 29-32, 34, 37-40, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitty et al US Patent No. 6,145,079 in view of Shimomura et al US Patent No. 6,473,858.

8. With regards to claims 1, 7, 15, 23, and 37, Mitty teaches a data element being statically encrypted with a static key (Mitty, column 8 lines 48-51, M2 encrypted to form M3), a data element being dynamically encrypted with a dynamic key (Mitty, column 12 lines 14-23, M9 encrypted to form M10), and a data element being decrypted with a dynamic key and a static key (Mitty, column 12 line 61 – column 13 line 17, decrypts M10 and M3). Mitty fails to teach that in response to a transmission failure of said data

Art Unit: 2134

element, decryption of said data element being recovered without retransmission of data. Shimomura teaches that in response to a transmission failure of said data element, decryption of said data element being recovered without retransmission of data (Shimomura, column 14 lines 5-15). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Shimomura's correction method with Mitty's secure transaction system because it offers the advantage of ensuring that received data is not lost or altered (Shimomura, column 14 lines 5-15).

9. With regards to claims 2, 8, 16, 24, 30, 38, Mitty as modified teaches encryption with said static key being strong encryption (Mitty, column 8 lines 48-51).

10. With regards to claims 3, 9, 17, 25, 31, 39, Mitty as modified teaches encryption with said dynamic key being weak encryption (Mitty, column 12 lines 14-23).

11. With regards to claims 4, 10, 18, 26, 32, 40, Mitty as modified teaches a data element being encrypted with a static key on a first computer system (Mitty, column 8 lines 48-51, M2 encrypted to form M3, column 10 lines 9-16 intermediary receives package from sender), the data element being encrypted with the dynamic key on a second computer system (Mitty, column 12 lines 14-23, M9 encrypted to form M10 by intermediary computer system), and the data element being decrypted with the static key and dynamic key on a third computer system thereby encryption and decryption are distributed between the first, second, and third computer systems (Mitty, column 12 line 61 – column 13 line 17, recipient/3rd computer system decrypts M10 and M3).

Art Unit: 2134

12. With regards to claims 5 and 27, Mitty fails to teach the second computer being untrusted. Examiner contends that untrusted computers are well known in the art and it would have been obvious to a person of ordinary skill in the art to allow Mitty's system to work with untrusted computers because it offers the advantage of allowing interoperability with a far wider range of networks and systems.

13. With regards to claims 12, 20, 34 and 42, Mitty as modified teaches the determination of whether a transmission failed (Mitty, column 6 lines 30-56, confirmation messages) and the repairing of the data element without retransmission (Shimomura, column 14 lines 5-15).

14. With regards to claim 29, Mitty fails to teach the creation of dynamic encryption recovery information and that in response to a transmission failure of said data element, decryption of said data element being recovered without retransmission of data using dynamic encryption recovery information. Shimomura teaches the creation of dynamic encryption recovery information (Shimomura, column 4 lines 51-60) that in response to a transmission failure of said data element, decryption of said data element being recovered without retransmission of data (Shimomura, column 14 lines 5-15). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Shimomura's correction method with Mitty's secure transaction system because it offers the advantage of ensuring that received data is not lost or altered (Shimomura, column 14 lines 5-15).

Art Unit: 2134

15. Claims 6, 11, 19, 28, 33, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitty et al US Patent No. 6,145,079 and Shimomura et al US Patent No. 6,473,858, as applied to claims 1, 7, 15, 23, 29, and 37, in further view of Bailey III US Patent No. 5,659,614.

16. With regards to claims 6, 11, 19, 28, 33, and 41, Mitty as modified teaches a data element being encrypted with a static key and a dynamic key on a first computer system (Mitty, column 8 lines 48-51, M2 encrypted to form M3, column 9 lines 25-47 encrypted M5 to form M6), but fails to teach the data element being decrypted by the same dynamic key on a second computer system. Bailey teaches the data element being decrypted with the static key and the dynamic key on a second computer system (Bailey, column 6 lines 9-21, column 18 lines 53-55). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Bailey's method with Mitty's secure transaction system because it offers the advantage of helping ensure an attacker cannot decrypt data by acquiring a single key during a transmission from a source to destination (Bailey, column 6 lines 8-21).

Conclusion

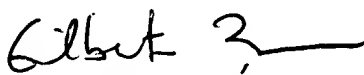
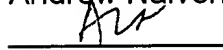
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L. Nalven whose telephone number is 571 272 3839. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

Art Unit: 2134

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571 272 3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Nalven



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